IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 426 OF 2004

Smt. Laxmi Durga Kusale & Ors. ..Appellants

versus

Union of India ..Respondents

Mr. G. J. Mohan Rao for the Appellants.

Mr. A. Samant for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 17TH OCTOBER,2005

P.C. :

1. This Appeal is filed by the original claimants. They had filed claim petition before the Railway Claims Tribunal, Mumbai, for compensation regarding the accident to the husband. Claim petition came to be dismissed on the ground that Post Mortem report was not produced, though there is other evidence. However, according to the Tribunal, non-production of post mortem report goes to the root of the matter. In view of this fact, the only alternative left is, to remand the matter for giving opportunity to the appellants to get the Post Mortem report produced and proved. Therefore, this appeal which is at the stage of admission and final hearing

simultaneously, is admitted and finally disposed of by the following order :

ORDER

. Appeal is allowed. Impugned order is set aside. The matter is remanded to the Railway Claims Tribunal, Mumbai. Parties shall appear before the Tribunal on 29.11.2005. The Tribunal shall give opportunity to the appellants to produce or get it produced the Post Mortem Report and other documents whatever that may be, and, also lead further evidence, if found necessary by both the parties. Tribunal to decide the matter within six months from the date of first appearance of the parties. No order as to costs.

17.10.2005 (D.G. DESHPANDE, J.)